

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

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WRIT PETITION No :16982 of 2006

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DATED:23-04-2007

M.Malkamma.

..... PETITIONER

AND

The Commissioner of Police,
Lakadikapool,
Hyderabad & 8 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner; learned Government Pleader for Home; and the learned counsel appearing for the respondents.

2. Petitioner seeks a writ of mandamus directing the respondents 1 to 5 to register the complaint against the respondents 6 to 9 as per the complaint, dated 27-06-2006, by directing the respondents 1 to 5 to initiate the proceedings as required under law.

3. It is the case of the petitioner that she is the owner of the house bearing Municipal No.19-1-914/2, admeasuring 150 sq.yards, situated at Devi Bagh, Muralinagar, Hyderabad, and a portion of the said property was let out to one M.Raju and to evict him. O.S.No.3924 of 2005 was filed on the file of the VII Junior Civil Judged, City Civil Court, and the same was compromised but even after passing the compromise decree the tenant has not vacated and therefore, she filed E.P.No.100 of 2006 to execute the decree. Accordingly the Court issued warrant on 07-06-2006 and the bailiff delivered vacant possession of the said portion on 09-06-2006. It is stated that the 6th respondent claiming himself as BJP leader has sent unsocial elements armed with lathies and knives and attempted to trespass into her house to take

possession of the property obtained by her in E.P.No.100 of 2006 in O.S.No.3924 of 2005, and therefore, she made a complaint before the 4th respondent on 27-06-2006 and the 4th respondent has not taken any action so far. It is further stated that the respondents 6 to 9 along with rowdy elements came to her house, demolished the gate, broke open the door, and threw away the house hold articles from the portion which she has taken possession pursuant to the execution but the respondent who is expected to maintain law and order and render police assistance failed to register a case and take appropriate action against the accused. It is stated that though the complaint has been submitted but the 4th respondent has not acknowledged the receipt of the same and therefore, copies of the same were sent to the respondents 1 to 5. Hence, the present Writ Petition.

4. 4th respondent filed counter stating that the petitioner never came to him to lodge a complaint and in fact, on 24-06-2006 petitioner's son-Laxman; and daughter- Navaneetha came to the police station but he was away from the police station at that time. The said Laxman reported about the incident orally to the Sub Inspector of police-A.Sudershan, who immediately rushed to the spot along with the petitioner's son and daughter, examined the scene of offence, and noticed that nothing was found destroyed except the main gate of the premises was removed from the wall. It is stated that he has gathered evidence from the neighbours and accordingly police picketing was also posted, and pursuant to the representation, dated 24-06-2006, police registered

Cr.No.119 of 2002 for the offence punishable under Sections 453, 427, 447, and 506 IPC.

5. I am of the opinion that whether the petitioner filed the complaint or his son or daughter filed the same, it is for the 4th respondent to take immediate action, but however, it is stated that based on the copy of the complaint sent to the respondents 1 to 3 the superior police officials directed to conduct enquiry and accordingly a report was submitted by the 4th respondent on 15-09-2006 stating that action has been taken based on the complaint of the petitioner. I am of the opinion that as the complaint was filed against the 4th respondent making serious allegations, conducting enquiry and filing a counter by the 4th respondent himself is not appropriate. It is for the superior officials to file a counter apart from the counter filed by the person against whom specific allegations have been made. It is rather curious to observe of-late that when serious allegations have been made from the Station House Officer the question of conducting enquiry by the said Station House Officer and denying the allegations by him is not proper. In the instant case none of the superior officials have filed a counter but however as it is stated that the case was already registered in Cr.No.119 of 2006 for the offence punishable under Sections 453, 427 and 506 IPC, 1st respondent is directed to supervise the investigation and see that immediate final report/charge sheet is filed in accordance with law.

6. Accordingly, the Writ Petition is disposed of. No order as to

costs.

V.ESWARAIAH,J

23rd April, 2007.

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